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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,880	06/12/2001	John Patrick Perkins	PERKINS-1532	2807

7590 03/26/2003

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EXAMINER

MAYEKAR, KISHOR

ART UNIT	PAPER NUMBER
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1753

DATE MAILED: 03/26/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/857,880

Applicant(s)
J. PERKINS

Examiner
Kishor Mayekar

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1753



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 10, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-24 is/are pending in the application.
- 4a) Of the above, claim(s) 17-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Election/Restriction

1. Newly submitted claims 17-24 (where claim 24 erroneously claimed as an apparatus claim is assumed to be a method claim because it depends on claim 22) directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: New claims 17-24 are directed to a method for subjecting a fluid to irradiation that is independent and distinct from the apparatus in new claims 9-16 rewritten of claims 1-8 as the process as claimed can be practiced by another and materially different apparatus such as with a vessel such that the transducer radiates into fluid is less 0.1 m thick.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 17-24 are withdrawn from

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consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Rewritten claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over CARLIN (2,578,505), for reasons as of record.

4. Rewritten claims 9-11 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over DION et al. (6,361,747), for reasons as of record.

5. Claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over DION '747 as applied to claims 9-11 and 13-16 above, and further in view of

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DESBOROUGH et al. (5,658,534), for reasons as of record.

Response to Arguments

6. Applicant's arguments filed January 10, 2003 have been fully considered but they are not persuasive.

In response to Applicant's argument to there is a clear structural difference (not to have a large power intensity) between the apparatus of the present invention and that of CARLIN or SAWYER, first the Examiner would like to clarify that, because of typo error, claims 1-3 was clearly presented as a rejection under 35 USC 103 to CARLIN and not to SAWYER. And second, the argument "not to have a large power intensity" is a process limitation and is not a structural limitation to be differed from CARLIN's teachings (emphasis added).

To the argument presented in the paragraph crossing pages 9 and 10 of the remarks, it's the Examiner's position to maintain the rejection to claims 9-11 over CARLIN because the limitations of the power dissipation and the power intensity are

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process limitations, and the limitations of "sufficiently closed to each other" and "sufficiently high" are relative terms as to how close is called close and how high is called high.

To the argument on the phenomenon of "cavitation blocking", because the limitation on which Applicant relies is not stated in the claims, it is therefore irrelevant whether the reference includes the feature or not.

To the argument with respect to the rejections of claims over DION that in the present invention the transducer are attached to an inner or outerwall of the vessel without a couplant, and the array of separate transducers extends both circumferentially and longitudinally, is not noted that since claim 1 recites that a plurality of transducers attached to a wall of the vessel in array that extends both circumferentially and longitudinally and not the array of separate transducers as argued, the limitations on which Applicant relies are not stated in the claims, it is therefore irrelevant whether the reference includes those features or not.

As to argument to a copy a citation, because the citation is not used in the rejection, it is irrelevant to discuss the anticipation by this citation.

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A to the argument in the second paragraph of page 4 of the remarks, it's the Examiner's position to maintain the rejection because the argued numerical limits are process limitations.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory

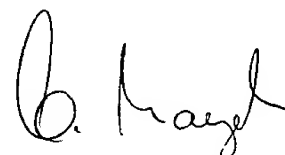
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period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kishor Mayekar whose telephone number is (703) 308-0477. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen, can be reached on (703) 308-3322. The fax phone number for this Group is (703) 872-9310 (non-after finals) or 872-9311 (after final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



Kishor Mayekar
Primary Examiner
Group 1700

KM
March 20, 2003